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                        UNITED STATES DISTRICT COURT
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                       CENTRAL DISTRICT OF CALIFORNIA
                              WESTERN DIVISION
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11 SYLVESTER FLOYD,
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                  Petitioner,
                                      Case No. CV 12-4930-SJO(AJW)
                                    )
13 vs.
14 R.L. GOWER, Warden,
                                     MEMORANDUM AND ORDER
                                      DISMISSING PETITION1
15
                  Respondent.
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        In 2002, petitioner was convicted of possession of a firearm by a
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18 felon in Los Angeles County Superior Court Case No. YA051229. Pursuant
19 to the Three Strikes Law, petitioner was sentenced to state prison for
20 a term of 25 years to life. [Petition at 2].
        On March 17, 2004, petitioner filed a habeas petition in this
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           <u>Floyd v. Prosper</u>, Case No. CV 04-1801-SJO(AJW).
                                                             The petition
23 was denied on the merits on September 30, 2004. Both this Court and
  the Ninth Circuit Court of Appeals denied petitioner's request for a
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  certificate of appealability.
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           Some of the following facts are obtained from the Court's
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files concerning petitioner's prior petitions. The Court takes judicial notice of such official court files. <u>See</u> Fed. R. Civ. P. 201; <u>Lee v. City of Los Angeles</u>, 250 F.3d 668, 688-689 (9th Cir. 2001).

In 2008, petitioner filed a second petition in this Court 1 challenging his 2002 conviction. Case No. CV 08-5985-SJO(AJW). petition was dismissed as successive.

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The present petition was filed on June 5, 2012. Like the petitions previously filed by petitioner, this petition challenges the validity of petitioner's 2002 conviction and sentence in the Los 7 Angeles County Superior Court. [Petition at 2].

A federal court must dismiss a second or successive petition that raises the same grounds as a prior petition. 28 U.S.C. § 2244(b)(1). A 10 federal court must also dismiss a second or successive petition raising 11 a new ground unless the petitioner can show that (1) the claim rests on 12 a new, retroactive, constitutional right or (2) the factual basis of the claim was not previously discoverable through due diligence, and 14 those new facts establish by clear and convincing evidence that but for 15 the constitutional error, no reasonable factfinder would have found the quilty of the underlying offense. 28 ||2244(b)(2)(A)-(B). It is not the district court, however, that decides 18 whether a second or successive petition may be pursued. 19 "[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the 21 appropriate court of appeals for an order authorizing the district 22 court to consider the application." 28 U.S.C. § 2244(b)(3)(A); see 23 <u>Felker v. Turpin</u>, 518 U.S. 651, 656-657 (1996). Absent authorization 24 from the court of appeals, this court lacks jurisdiction over this 25 second or successive petition. <u>Greenawalt v. Stewart</u>, 105 F.3d 1268, 26 1277 (9th Cir.), cert. denied, 519 U.S. 1102 (1997).

Because petitioner has not obtained leave from the Court of 27 28 Appeals to file a successive petition, this court lacks jurisdiction to

1	consider it. Accordingly, the petition for a writ of habeas corpus is
2	dismissed for lack of jurisdiction.
3	June 13, 2012.
4	Dated:
5	5. Jame Otens
6	S. James Otero
7	United States District Judge
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8	UNITED STATES DISTRICT COURT
9	CENTRAL DISTRICT OF CALIFORNIA
10	WESTERN DIVISION
11	SYLVESTER FLOYD,)
12	Petitioner,) Case No. CV 12-4930-SJO(AJW)
13) vs.
14	R.L. GOWER, Warden,) JUDGMENT
15)
16	Respondent.))
17	It is hereby adjudged that the petition for a writ of habeas
18	corpus is dismissed for lack of jurisdiction.
19	corpus is dismissed for fack of jurisdiction.
20	Dated:
21	Dated.
22	S. James Otero
23	United States District Judge
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